

United States of America
Before the National Labor Relations Board
Region Eighteen

Menard, Inc.

and

Case No. 18-CA-205432
18-CA-209068

Seth Goldstein
Kevin Fisher

Respondent's Motion to Stay Proceedings

Pursuant to 29 C.F.R. § 102.24 Respondent, Menard, Inc. requests that the Board stay further proceedings in the above-captioned case due to the now pending case 18-cv-376, *Menard, Inc. v National Labor Relations Board*, filed in the United States District Court for the Western District of Wisconsin. In that case, Menard alleges that the Board lacks jurisdiction in this matter and should be enjoined from any further proceedings. If Menard prevails at the district court level, any further proceedings in this matter will become moot. It is also highly likely that either party will appeal the federal district court's decision. The Supreme Court has ruled that similar actions must be stayed by the Board. See *Bill Johnston's Restaurants, Inc. v. N.L.R.B.*, 461 U.S. 731, 746 (1983).

The outcome of the federal district court case will directly impact whether this action can proceed. To preserve Board resources and prevent prejudice to Menard and other parties involved, this action must be stayed. By filing this Motion to Stay, Menard does not relinquish or waive its allegations in its federal district court complaint or in its affirmative defenses to this action that the Board lacks jurisdiction to adjudicate the underlying complaint. See Board Rule §102.28.

Respondent sought the Board's agreement to stay the hearing scheduled for August 20, 2018. The Board did not concur with basis of this Motion or the relief sought.

Respectfully submitted,

Menard, Inc.

Dated: 7/31/2018

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